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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/595,327  | 04/09/2006  | Julio Antonio Gomez  | KAP-PI-US             | 7566             |
| 44702 7590 10/08/2009<br>OSTRAGER CHONG FLAHERTY & BROITMAN PC<br>570 LEXINGTON AVENUE<br>FLOOR 17<br>NEW YORK, NY 10022-6894 |             |                      |                       |                  |
|   |             |                      | EXAMINER              |                  |
|   |             |                      | ROBINSON, DANIEL LEON |                  |
|   |             |                      | ART UNIT              | PAPER NUMBER     |
|   |             |                      | 3742                  |                  |
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|   |             |                      | 10/08/2009            | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/595,327

**Applicant(s)**

GOMEZ, JULIO ANTONIO

**Examiner**

DANIEL L. ROBINSON

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 27-77 is/are pending in the application.
- 4a) Of the above claim(s) 61-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

***Election/Restrictions***

Applicant's election without traverse of Group I, Claims 27-60 in the reply filed on 6-12-2009 is acknowledged.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 27 recites "transparent" this recitation is unclear as to transparent to what. Claim 51 recites "concertina-like flutes" this recitation is unclear.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27- 43, 50 and 52-56 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wyatt(U.S.Pat.4,558,197).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wyatt in view of Skerker al.(U.S.Pat.5,008,508) . Wyatt discloses a potato baker of the invention includes an annular ring-like base member 10 having a continuous upper rim flange 12 which provides handles for gripping the member. Integral with the base are a plurality of, in this case four, upstanding blades 16 spaced at regular intervals about the circumference of the base. The annular base and blades are made of a molded plastic microwave transparent material such as, for example, a polycarbonate sold under the brand name Lexan.

Each blade 16 is thin and generally triangular or wedge-shaped and includes opposing broad surfaces 18,19 extending in the direction of the annular base separated by a thin thickness dimension 20. As seen in FIG. 4, such thickness dimension increases progressively from top to bottom of the

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blade for strength and manufacturing considerations. However, as shown in FIG. 3, the broad surfaces 18,19 converge along free side edges 22,24 and an apex edge 26. Each blade includes a relatively wide base portion 16a and a relatively narrower apex portion 16b defined by opposite side edges 22,24. Such edges extend upwardly from the base portion and converge at a rounded or otherwise blunt apex 26. Although the apex is rounded in profile for safety, the free edge portions 22,24 and apex edge 26 formed by the converging of the broad blade surfaces 18,19 are relatively sharp for easily penetrating the skin and meat of a raw potato pushed onto the blade. Wyatt does not explicitly show “concertina-like flutes”. Skerker discloses a cooking apparatus with support members (4) and (6) are also provided with the a means for ventilating moisture and gases from the food product. The ventilation means comprises a plurality of legs (38) as seen in FIGS. 1 and 4 extending from the projections (9) downwardly and outwardly in a spaced apart relationship The legs (38) form a channel in the food product to allow the escape of moisture and gases from the food product. The legs (38) lend stability to the cooking apparatus (2) and also allow each support member (4) and (6) to stand independently and separately on a flat surface. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use supports as taught by Skerker with the device of Wyatt so as to allow the escape of gas.

Claims 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyatt in view of Matsuno(US2002/0020702). Wyatt does not show a cover.

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Matsuno discloses a cooking device that explicitly shows a cover. It would have been obvious at the time of the claimed invention to use a caver as taught by Matsuno with the device of Wyatt so as to seal the device.

***Allowable Subject Matter***

Claim44-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and elimination of any 112 issues.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dodge, Tanaka, DeRienzo Turpin, Asen and Faller are cited to show structure similar to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL L. ROBINSON whose telephone number is (571)272-4788. The examiner can normally be reached on m-f 5:30-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu B Hoang can be reached on 571-272-4780. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dlr  
/Daniel L Robinson/  
Primary Examiner, Art Unit 3742